

MEMORANDUM

DATE: July 20, 2006

TO: Randall Lutter, Ph.D.  
Associate Commissioner for Policy and Planning  
Food and Drug Administration

THROUGH: Jenny Slaughter  
Director, Ethics and Integrity Staff  
Office of Management Programs  
Office of Management

FROM: Igor Cerny, Pharm.D. 151  
Director, Advisors and Consultants Staff  
Center for Drug Evaluation and Research

SUBJECT: General Matters Waiver under 18 U.S.C. §208(b)(3) for  
Terry Davis, Ph.D.

Terry Davis, Ph.D., has been appointed as a special Government employee. This memorandum constitutes a determination, in accordance with 18 U.S.C. §208(b)(3), that the need for Dr. Davis' participation in particular matters of general applicability, outweighs the potential for a conflict of interest created by any personal or imputed financial interests that she may have in particular matters of general applicability in which she is expected to participate.

Particular matters of general applicability may affect certain personal financial interests or the financial interests of the persons and organizations whose interests impute to Dr. Davis under 18 U.S.C. §208. This would include the following:

1. Financial investments in pharmaceutical companies, health care industries, and any other industries that might be affected by Dr. Davis' participation in particular matters of general applicability, for example, stock in \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_;
2. Employment with research institutions, state and local governments, pharmaceutical companies, health care industries, or other organizations that may be

affected by Dr. Davis' participation in particular matters of general applicability (No interests currently reported);

3. Grants, contracts, or other funding for research or other services received from the Federal Government that might be affected by Dr. Davis' participation in particular matters of general applicability (No interests currently reported);
4. Grants, contracts, or other funding for research or other services received from non-federal entities, including industries and foundations, that might be affected by Dr. Davis' participation in particular matters of general applicability, for example, consulting for \_\_\_\_\_;
5. Expert witness, litigation or advocacy services in matters that might be affected by Dr. Davis' participation in particular matters of general applicability (No interests currently reported);
6. Any interest of a group or organization in which Dr. Davis is appointed as an officer, director, trustee, employee, or general partner that might be affected by Dr. Davis' participation in particular matters of general applicability (No interests currently reported);

As a special Government employee, Dr. Davis potentially could become involved in matters that could affect her financial interests or the financial interests of persons and organizations whose interests impute to her under 18 U.S.C. §208. Under 18 U.S.C. §208, Dr. Davis is prohibited from participating personally and substantially in a particular matter affecting those interests. However, you have the authority under 18 U.S.C. §208 (b) (3) to grant a waiver permitting Terry Davis, Ph.D., to participate in particular matters of general applicability.

For the following reasons, I believe that it would be appropriate for you to grant a waiver to Dr. Davis that would permit her to participate in particular matters of general applicability.

First and foremost, this waiver is justified, in part, because of the general nature of particular matters of general applicability. It is well recognized that particular matters of general applicability pose far less risk of a conflict of interest. Particular matters of general applicability include regulations, legislation, guidelines, points-to-consider, and policies governing classes of organizations, individuals, and products. Particular matters of general applicability do not include particular matters involving specific parties, such as specific grants, contracts, recommendations regarding a specific product, or enforcement matters involving known parties. Particular matters of general applicability will not have a unique and distinct impact on any of Dr. Davis' personal or imputed financial interests, but rather may affect classes of similarly situated products and manufacturers to the same extent.

This waiver is also justified because the Agency has a need for Dr. Davis' services, in light of her expertise in clinical psychology. Her participation will contribute to the diversity of views and expertise represented with respect to particular matters of general applicability.

Moreover, Dr. Davis will be participating in an advisory capacity only. The Food and Drug Administration has sole discretion concerning action to be taken and policy to be expressed on particular matters of general applicability.

Please note that this waiver only allows participation in particular matters of general applicability. It will not allow Dr. Davis to participate in any matters involving specific parties that may be affected by her financial interests, or the interests of any person or organization described above. When the matters in which Dr. Davis may become involved as a

